

1 YI LIN ZHENG, ESQ.
2 Nevada Bar No. 10811
3 VEGAS GOLDEN LAW
4 2801 S Valley View Blvd, Ste 16
Las Vegas, NV 89102
Phone (702) 385-7170
Email: vegasgoldenlaw@gmail.com

5 Attorney for Stephon Whitney
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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 STEPHON WHITNEY,

13 Defendant.

14 Case No. 2:21-CR-002-JAD-NJK

15 **MEMORANDUM IN SUPPORT
OF GUILTY PLEA WITHOUT A
PLEA AGREEMENT**

16 In anticipation of the change of plea soon to be scheduled by this Court, Stephon
17 Whitney, by and through his counsel, Yi Lin Zheng, submits this Memorandum in
18 Support of Guilty Plea without a Plea Agreement. Mr. Whitney intends to enter a plea
19 of guilty to the one count contained in the criminal Indictment charging him with being
20 a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). This Memorandum is
21 to aid the Court in advising the defendant of the consequences of a guilty plea under
22 Fed.R.Crim.Pro. 11(b).

23 DATED: June 1, 2022.

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25 By: /s/ Yi Lin Zheng

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27 Yi Lin Zheng
28 Attorney for Stephon Whitney

SUMMARY

I. CHARGE

The defendant is charged by Indictment with one count of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g).

II. SENTENCING GUIDELINES

The sentence imposed will be under 18 U.S.C. § 3553(a). In determining the sentence the Court must consider the United States Sentencing Guidelines. However, those Guidelines are only advisory and are one factor for the Court to consider in arriving at a fair, just and reasonable sentence. The length and terms of that sentence depend upon the nature and number of previous criminal convictions which are used to determine the advisory offense level and criminal history category. The Court calculates the offense level and criminal history and, then, may impose a sentence within the applicable Guidelines range, or any sentence deemed reasonable under § 3553(a).

A federal prison sentence can no longer be shortened by early release on parole, because parole has been abolished.

Under the provisions of U.S.S.G. § 5E1.2, a fine may be imposed, depending upon the Court's finding of the appropriate Offense Level within a range to be determined by the Guidelines. However, U.S.S.G. § 5E1.2(e) allows the Court to waive my fine, impose a lesser fine or an alternative sanction, such as community service, if the defendant establishes he does not have the ability to pay a fine and is not likely to become able to pay any fine.

Title 18, U.S.C. § 3663 and U.S.S.G. § 5E1.1 permit restitution as deemed appropriate by the Court. Restitution is not an issue in this case.

1 A mandatory special assessment under 18 U.S.C. § 3013 and U.S.S.G. § 5E1.3 of
2 \$100.00 must be imposed for this offense.

3 **III. ELEMENTS OF THE OFFENSE**

4 Before a verdict of guilty may be reached, the government would have to prove the
5 essential elements of the offense of felon in possession of a firearm beyond a reasonable
6 doubt as follows:

7 First, the defendant knowingly possessed a firearm;

8 Second, when he possessed the firearm, the defendant was a convicted felon;

9 Third, the defendant knew he was a felon at the time he possessed the firearm

10 Fourth, the firearm had been shipped in interstate commerce.

11 See Ninth Circuit Model Criminal Jury Instruction § 8.65A

12 **IV. FACTS TO SUPPORT THE GUILTY PLEA**

13 On or about September 2, 2020, STEPHON WHITNEY, knowingly possessed a
14 firearm. At the time he possessed the firearm, he had been previously convicted of a
15 felony and knew that he was a felon.

16 DATED: June 1, 2022.

17 By: /s/ Yi Lin Zheng

18 Yi Lin Zheng
19 Attorney for Stephon Whitney

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1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 The undersigned hereby certifies that he is an employee of Vegas Golden Law and
3 is a person of such age and discretion as to be competent to serve papers.

4 That on June 1, 2022, he served an electronic copy of the above and foregoing
5 **MEMORANDUM IN SUPPORT OF GUILTY PLEA WITHOUT A PLEA**
6 **AGREEMENT** by electronic service (ECF) to the person named below:

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8 JASON FRIERSON
9 United States Attorney
10 DANIEL COWHIG
11 Assistant United States Attorney
12 501 Las Vegas Blvd. South
13 Suite 1100
14 Las Vegas, NV 89101

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14 /s/ *Yi Lin Zheng*
15 Employee of the Vegas Golden Law